



Maine Health and Human Services

MaineCare
Division of Finance and Reimbursement Services
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Augusta, Maine 04333-0011

John Elias Baldacci, Governor
John R. Nicholas, Commissioner

TO: Affected Providers

FROM: John Michael Hall
Deputy Commissioner, DHHS
Acting Director, OMS

A handwritten signature in dark ink, appearing to read "JMH", is written over the printed name and title of John Michael Hall.

DATE: September 30, 2005

SUBJECT: Provider Advisory on the Maine Service Provider Tax

Attached is the OMS Provider Advisory on the Maine Service Provider Tax. The purpose of this advisory is to provide guidance with respect to calculation and payment of the Maine Service Provider Tax in light of certain issues raised by implementation of the MeCMS claims payment system.

We trust you will find this advisory helpful in relation to understanding and preparing your tax.

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JOHN ELIAS BALDACCII
GOVERNOR

JOHN R. NICHOLAS
COMMISSIONER

September 30, 2005

Provider Advisory on the Maine Service Provider Tax

The purpose of this Provider Advisory is to answer questions and provide guidance to MaineCare providers related to the Service Provider Tax (SPT) that was instated on July 1st, 2005 for the following types of services:

Community Support Services – Rehabilitative services provided to adults or emancipated children under contract with the Department of Health and Human Services

Day Habilitation Services – Services by community based agencies to children or adults with mental retardation under contract with the Department of Health and Human Services

Personal Support Services - Services to children or adults with mental retardation under contract with the Department of Health and Human Services (Code W125)

Residential Training Services - Services to children or adults with mental retardation under contract with the Department of Health and Human Services (Code W114)

While providers may offer additional services only the services listed above and those that were taxable in the past related to Private Non-Medical Institutions are subject to the tax.

Attached to this advisory are the statutory definitions for these types of providers.

Providers of the above services must pay the 5% service provider tax based on the value of services provided in the above categories.

By now most providers should have received correspondence and an application form from Maine Revenue Services. If a provider has not completed and remitted the application form, please do so as soon as possible. If a provider has not received any information from Maine Revenue Services, please contact them at (207) 624 – 9693.

The following important points should be noted:

- A provider's filing frequency will be determined when you complete the Service Provider Application. If providers have completed the application, they should already be aware of their filing frequency.
- Gross Services (as specified on the instructions for the Maine Service Provider Tax Return) are equal to the value of services provided. Value is measured by the sales price. The statute defines "sales price" as the "total amount of consideration.... for which... services are sold". (Section 2551, subsection 15). In general this is the amount you billed for the reporting period. It does not necessarily need to equate to the date of service activity in the reporting period. Some of that activity may not be billed yet.

If the amount provider's bill is later adjusted and they do not receive the full amount, they may take a credit for the amount of the adjustment on the next return they file. This means if the provider bills a client for \$200 and receives \$150 in payment as payment in full at a later date, the provider would be able to take a \$50 credit on the next return encompassing the period in which the credit is identified, provided the amount of the credit has been listed as uncollectable on the provider's books.

The Department is aware that certain there have been occasions when a provider have been instructed not to bill certain claims. Those claims would not be expected to be subject to the tax until they are billed.

Multiply the taxable portion of the provider rate (which does not include the provider's increased reimbursement for the tax) by the number of billing units to arrive at the amount of tax to report on the return. Please see an example at the end of this advisory on how to derive a taxable rate.

- If a seller (provider) includes this tax on a customer's bill, it must be shown as a separate line item and identified as a *service provider tax*.

Do not include any revenue from the United Way, gifts or endowment income, or any other income that is not directly derived from the rendering of services.

What are some of the common questions?

What is the provider's obligation to pay if the provider has not yet been able to bill and be paid at the new rates and the funds available are not available to pay the tax?

- It is recommended that the provider file the tax return based on the most recent rate the provider has received in their provider rate letter. We recommend the provider pay as much of the tax as possible. When the MaineCare Claims Management System (MECMS) begins to pay the adjusted rate properly, the provider will see the increased amounts reimbursed to the provider for the approved claims and adjustments. For that reporting period the provider can pay the back tax that the provider owes without interest or penalties. Designate in the tax payment which portion of the payment is for which period.

Note that Maine Revenue Services cannot cancel interest and penalties before they are imposed. For this reason the provider may receive notices of interest and penalties, but if this is due to not receiving the new rates in a timely manner, the interest and penalties will be waived. For more information Maine Revenue Services can be reached at (207) 624-9693.

What is the true final tax liability? Isn't it after cost settlement?

- The tax liability is based on the provider's gross services as the provider currently knows them to be. Providers that are cost settled would have a final increase or decrease based on interim and final settlements. The provider would reflect this in a future filing of the tax.

How will cost settled providers be handled regarding the tax liability? For day hab in particular, will they have to file an amended return? How does that impact how gross receipts are calculated?

- When the audit is completed the Audit Division at DHHS will give the provider an adjusted settlement amount. This amount will be applied as an addition or credit to the next return.

Is the tax figured on claims or interims or both? Does the provider pay what they think is owed, on interims plus claims or just the amount billed?

- The interims are advances that will later be recaptured. To avoid more confusion in audit trails and bookkeeping, in most cases the provider would not pay tax on interim payments (see below for an exception). Interim payments have no bearing on final payment for gross services.
- The tax should be paid on just the amount billed minus any adjustments as described above.

Does the tax liability apply to Individual Support Option (ISO) providers?

- Any provider that receives revenue for any method of providing residential training or other taxable services and who is the ultimate biller to the payor is subject to the tax. The tax applies to MaineCare members and private pay individuals for this question in the same manner as it does for others.

Maine Revenue Services has indicated that if no claims are submitted, then they will base the tax on the interims. Is that true?

- It is necessary for the provider to show good faith in submitting claims to the MECMS. If the provider claims have been loaded into the system, the provider will have a basis on which to base the provider tax return. If no claims are being submitted or no proof can be shown that claims have been submitted and the related amount, then Maine Revenue Services would need to base its tax estimates on some amount. The return can later be amended when correct claim reimbursement is determined.
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Can you provide an example of how to use the DHHS "Rate Setting Worksheet" to develop the rate? (Note: this example is for providers that receive rate setting worksheets as part of their rate setting process)

- In order to arrive at the taxable sales for a reporting period, it is necessary to determine a daily rate for tax purposes. From our discussions, MRS found that the DHS "Rate Setting Worksheet" would provide the means to develop this rate as follows:

	"Total Program Costs"
Less	"Total Adjustments for Unallowable Costs"
Equals	Net Adjusted Program Costs
Divided by	Census Billable Days
Equals	Daily Rate for Tax Purposes

This Daily Rate would then be applied to the actual census during each reporting period. This daily rate would need to be recalculated each time a new rate setting worksheet is required.

Example:	"Total Program Costs"	\$200,000
	"Total Adjustments for Unallowable Costs"	<u>20,000</u>
	Net Allowable Program Costs	\$180,000
	Billable Days	1800
	Daily Rate	\$ 100

Service Provider Return for Month of August 2005

Actual Census	5 patients x 31 days = 155
Gross Services	155 x \$100 (daily rate) = \$15,500
Service Provider Tax	\$15,500 x 5% = \$ 775

Note: The amount for the Service Provider Tax that is included in your Total Program Costs should not be included in the Net Adjusted Program Costs. This prevents a tax on the tax.

Attachment
Description of Services (Other than PNMI) related to the Service Provider Tax

PARTS

Sec. S-1. 36 MRSA §2551, sub-§1-B is enacted to read:

1-B. Day habilitation services. "Day habilitation services" means services:

A. That are provided by community-based agencies to children or adults with mental retardation and include assistance with the acquisition, retention or improvement of self-help, socialization and adaptive living skills; and

B. That take place in a nonresidential setting separate from the home or facility in which the child or adult resides, except when a physician has ordered that such services be provided in the child's or adult's home, and focus on enabling the child or adult to attain or maintain maximum functional levels.

"Day habilitation services" includes only those services provided by designated agencies under a contract with the Department of Health and Human Services.

Sec. S-2. 36 MRSA §2551, sub-§7-B is enacted to read:

7-B. Personal support services. "Personal support services" means services provided to children or adults with mental retardation, including direct assistance with eating, bathing, dressing, personal hygiene and other activities of daily living. These services include only those services provided by designated agencies under a contract with the Department of Health and Human Services and:

A. May include assistance with instrumental activities of daily living such as assistance with the preparation of meals, but does not include the cost of the meals themselves;

B. If specified in the child's or adult's care plan, may include such housekeeping chores as bed making, dusting and vacuuming that are incidental to the care furnished, or are essential to the health and welfare of the child or the adult; and

C. May be provided by a provider unrelated to the child or the adult or by an adult relative other than an adult

recipient's spouse, but may not be provided in the same setting where residential training is provided.

Sec. S-3. 36 MRSA §2551, sub-§13-A is enacted to read:

13-A. Residential training services. "Residential training services" means services provided to children or adults with mental retardation to assist with the acquisition, retention or improvement of skills related to activities of daily living, such as personal grooming and cleanliness, household chores, eating and food preparation, and the social and adaptive skills necessary to enable the child or adult to live in a non-institutional setting. Residential training services include only those services provided by designated agencies under a contract with the Department of Health and Human Services.

PL 2005, c. 12, part VV-1, and will be codified in 36 MRSA §2551(1-A):

1-A. Community support services. "Community support services" mean rehabilitative services provided to adults at least 18 years of age or to emancipated children that are provided in the context of a supportive relationship pursuant to an individual support plan that promotes a person's recovery and integration of the person into the community and that sustain the person in that person's current living situation or another living situation of that person's choice. "Community support services" include only those services provided by a designated community support services provider licensed by and operating under a contract with the Department of Health and Human Services for such services, whether the provider is reimbursed through participation in the MaineCare program or with state grant funds.